



defense or any redundant, immaterial, impertinent, or scandalous matter . . . on motion made by a party either before responding to the pleading or, if a response is not allowed, within 21 days after being served with the pleading.” Defendant timely filed its motion to strike within twenty-one days after being served with Plaintiff’s response. As Plaintiff’s response is not permitted under Federal Rule of Civil Procedure 7(a), Defendant’s motion to strike Plaintiff’s response is GRANTED. *See Daniels v. Nichols*, No. 5:09-CT-3152-FL, 2011 U.S. Dist. LEXIS, at \*10 (E.D.N.C. Feb. 25, 2011) (unpublished) (granting the defendant’s motion to strike the plaintiff’s reply to the defendant’s answer).

With regard to Plaintiff’s discovery request, Federal Rule of Civil Procedure 5(d)(1) provides that interrogatories and requests for documents or tangible things “must not be filed” with the court “until they are used in the proceeding or the court orders filing.” The time for Defendant to respond to Plaintiff’s discovery request has not yet expired, and there is presently no basis for using any discovery in this proceeding. Further, the Court has not ordered the parties to file with the Court any of the discovery that has been conducted or may be conducted in this action. Accordingly, Plaintiff’s discovery request should not have been filed with the Court, and Defendant’s motion to strike the discovery request filing is therefore GRANTED. The granting of this motion does not relieve Defendant from responding to Plaintiff’s interrogatories and requests pursuant to the applicable Federal Rules of Civil Procedure.

For these reasons, Defendant’s motion to strike (DE-22) is GRANTED.

DONE AND ORDERED in Chambers at Raleigh, North Carolina this 3rd day of January, 2013.



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WILLIAM A. WEBB  
UNITED STATES MAGISTRATE JUDGE